



California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment
State Water Resources Control Board • Regional Water Quality Control Boards



Linda S. Adams
*Secretary for
Environmental Protection*

Arnold Schwarzenegger
Governor

Certified Mail: 7003 1680 0000 6174 8449

May 23, 2007

Chief Vern Losh
Director
County of Sonoma, Department of Emergency Services
2300 County Center Drive, Suite 221A
Santa Rosa, California 95403

Dear Chief Vern Losh:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of the Hazardous Materials Division's Certified Unified Program Agency (CUPA) on April 24 and 25, 2007. The evaluation was comprised of an in-office program review and a field oversight inspection. The State evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff, which includes identified deficiencies, with preliminary corrective actions and timeframes, program observations and recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that the Hazardous Materials Division's CUPA program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agencies progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to JoAnn Jaschke every 90 days after the evaluation date. The first deficiency progress report is due on July 24, 2007.

Cal/EPA also noted during this evaluation that the Hazardous Materials Division's CUPA has worked to bring about a number of local program innovations, including: maintaining an excellent working relationship with the Agricultural Commissioner's Office and testing the use of tablet PC to record and generate inspection reports and SOVs that has resulted in improved documentation of violations. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Don Johnson". The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosures

cc: Mr. Andrew Parsons, (Sent Via Email)
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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: **Sonoma County Department of Emergency Services**

Evaluation Date: **April 24 and 25, 2007**

EVALUATION TEAM

Cal/EPA: JoAnn Jaschke
SWRCB: Sean Farrow
OES: Jack Harrah
DTSC: Mickey Pierce

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to JoAnn Jaschke at (916) 323-2204.

	<u>Deficiency</u>	<u>Preliminary Corrective Action</u>
1	The CUPA does not have a CalARP dispute resolution procedure. CCR, Title 19, section 2780.1 (OES)	By July 24, 2007, the CUPA will develop a CalARP dispute resolution procedure that satisfies all of the elements of Title 19, Section 2780.1.
2	The CUPA has not documented how it expends at least 5% of its hazardous waste related resources to the oversight of universal waste handlers and silver only generators in their Inspection and Enforcement Plan. HSC Chapter 6.5, section 25201.4(c) and CUPA forum board position (DTSC and Cal/EPA)	By July 1, 2007, the CUPA will document how it expends at least 5% of its hazardous waste related resources to the oversight of Universal Waste handlers.
3	The CUPA is not conducting inspections in a manner consistent with the standards in law and regulation. During a review of files: • The Permit By Rule file for Odiyan Monks (Retreat Center) did not contain any documentation that the	Within 90 days (by July 24, 2007), the CUPA shall develop a process by which it can ensure that recyclers and tiered permitting facilities that are required to routinely submit

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	<p>facility has submitted either an annual closure cost estimate adjustment or an annual notification.</p> <ul style="list-style-type: none"> • The files for Odiyan Monks (12/03 Inspection report) and Norcal Metal Stripping (various documents in file) both contain evidence of onsite recycling, but neither file contains a recyclable materials report. <p>T27, CCR, section 15200(f); T22, CCR, section 67450.3; and HSC, section 25143.10 (DTSC)</p>	<p>information do submit the information. The process should be implemented at the beginning of the 1st quarter of calendar year 2008, to facilitate a baseline date and meet the requirements of having information submitted annually.</p>
4	<p>The CUPA is not documenting violations in accordance with the requirements of law. The CUPA's documentation of violations does not include the factual basis of each violation. A review of files provides the following examples:</p> <ul style="list-style-type: none"> • Reports for Rich Doss Trucking, Norcal Metal Stripping, and Tillman's German Car Care each note "keep manifests onsite" • Report for Chalk Hill Winery notes "have oil filters picked up" <p>Documentation of violations was noted as having improved in inspection reports/notices of violation generated using a computer based report, but it was noted that not all inspectors are using that system.</p> <p>HSC, section 25185(c)(2) (DTSC)</p>	<p>Within 30 days (by May 25, 2007) the CUPA shall remind staff of the elements to be recorded when documenting violations: the factual basis, the section violated, the corrective action, and the timeframe for correction. The CUPA may want to use the "Guidance for Inspection Report Writing for Unified Program Agencies" as a reference document.</p>
5	<p>The CUPA has not met the mandated inspection frequency for underground storage tank (UST) facility compliance inspections during the last three fiscal years. In FY 03/04, the CUPA completed UST compliance inspections for 73% of the regulated UST facilities. In FY 04/05, the CUPA inspected 67% of their regulated UST facilities. In FY 05/06, the CUPA inspected 79% of their regulated UST facilities.</p> <p>The CUPA's goal is to meet the inspection frequencies and conduct the compliance inspection during the annual monitoring certification. For the FY 06/07, the CUPA has completed 77% of their</p>	<p>By June 30, 2007, and each subsequent year, the CUPA will inspect every UST within its jurisdiction at least once every year.</p>

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	inspection and should reach 100% this year. HSC, Chap. 6.7, Section 25288 (SWRCB)	
6	The CUPA is not ensuring that all UST facilities have current financial responsibility forms. Files reviewed were lacking up to date financial responsibility forms. 40 CFR, Part 280, Subpart H (SWRCB)	By October 24, 2007, the CUPA will go through its files and identify those facilities with out-dated financial responsibility forms and require the submittal of new forms.
7	The CUPA is not ensuring that all UST facilities have a current operating permit. Files reviewed showed that Windsor Chevron, Rotten Robbie # 61, and the California Highway Patrol (CHP) each had expired permits. The facility permit for the CHP expired 2004 and the other two facility permits expired 2005 and 2006. HSC, Chap. 6.7, Section 25284 (SWRCB)	By October 24, 2007, the CUPA will go through its facility files and review them for other expired permits and bring those facilities into compliance.

CUPA Representative

Andrew Parsons
(Print Name)

Original Signed
(Signature)

Evaluation Team Leader

JoAnn Jaschke
(Print Name)

Original Signed
(Signature)

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA is implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute

1. **Observation:** In the FY 05/06, the CUPA reached final settlements in two cases as well as utilizing the red tag authority to bring a facility into compliance. One of the cases involved a site that failed to report a release of hazardous material (diesel fuel) into a nearby flood control channel. A final settlement amount of \$14,291 was paid to Sonoma County. In addition, a final settlement amount of \$150,000 was resolved in a non-compliant UST site. The CUPA required a bulk fueling plant to develop a compliance plan to bring the plant into compliance. The plan explains how the plant will install special line leak detectors and annual sensors for the bulk loading rack, obtain a permit for the BioDiesel tank, and replace the portable 1000 gallon double-walled AST used to sell Kerosene to the public with a permanent AST with a valid permit for Kerosene sales. The plant estimates the total cost for completing the projects identified in the plan is \$144,119.
2. **Observation:** The CUPA's SOP for public information release for the CalARP program states that site maps and specific chemical locations shall not be available for inspection. The citation is HSC 25506(a).

Recommendation: Since HSC 25506 is in Article 1 of Chapter 6.95 of HSC (Hazardous Materials Release Response Plans and Inventories) and does not apply to Article 2 (California Accidental Release Prevention Program), OES recommends that this bullet be removed.

3. **Observation:** While the CUPA has met its overall HMRRP inspection frequency for the past three years, the frequency has fallen off in the past two of those three. Overall numbers for FY 03/04 were 884, for FY 04/05, 334 and for FY 05/06, 350. Although the numbers of inspections for agricultural handlers were included in these totals, out of about 420 farming businesses, only 35 were inspected in FY 04/05, and 62 in FY 05/06, meaning inspections of the agricultural sites are substantially behind schedule.

Recommendation: OES recommends that the CUPA attempt to achieve an even pace of inspections, if possible. Overall, business plan inspections should total about 485 annually, and of these, about 140 should be inspections of agricultural handlers.

4. **Observation:** While the August 2004 area plan has an extensive table of contents, there was no reporting form, as required by Title 19, Section 2720(c).

Recommendation: OES recommends that a reporting form, substantially equivalent to the model form shown in Title 19, Section 2720 be included in the 2007 revision. Recommend it be added at the end as an appendix; think of it as an index.

5. **Observation:** The telephone number given in Appendix I of the August 2004 area plan for the Office of Emergency Services in Sacramento is no longer valid. The number given

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in Appendix I is (916) 262-1621. The current number of OES HazMat Unit is (916) 845-8741. This raises the question of the current validity of all of the numbers.

Recommendation: OES recommends that all of the telephone numbers in Appendix I be checked for current validity prior to finalization of the 2007 revision. These numbers should be checked on a regular basis.

6. **Observation:** The CUPA's inspection reports do not generally provide any observations other than those related to the documentation of violations or volumes of waste generated as related to business plan inventory submissions. General observations are often entered into the CUPA DMS database for reference by the inspector.

Recommendation: The CUPA may want to increase the amount of non-violation related observations in its inspection reports. HSC section 25185 states that an inspection report shall include all observations made during an inspection. Guidance is available in the "Guidance for Inspection Report Writing for Unified Program Agencies" on the Cal/EPA website.

7. **Observation:** The County Agricultural Commissioner implements the hazardous waste program at non-retail agricultural facilities. The Agricultural Commissioner's Office is not conducting inspections at a rate that would ensure that all hazardous waste facilities are inspected every three years. Overall, the CUPA's hazardous waste inspections are meeting a triennial frequency. Additionally, to maintain the triennial frequency the CUPA will have to conduct approximately 380 hazardous waste inspections during Fiscal Year 06/07, which is 52% more inspections than were conducted (on average) in the prior two years.

Recommendation: Both the Office of Emergency Services and the Agricultural Commissioner's Office may want to look to add at least one staff person to assist in meeting their inspection frequencies. Fee schedules may have to be adjusted to accommodate the additional staff.

8. **Observation:** The CUPA's inspection reports do not include any notations of the classification of each violation. The CUPA has reported finding only one Class I or Class II violation during 937 inspections over the past 3 years. Additionally, the CUPA's Inspection and Enforcement Plan notes "failure of a generator to keep a copy of each manifest for at least 3 years" as an example of a Class II violation. 3 of the 10 files reviewed had notations in them noting "keep manifests onsite".

Recommendation: The CUPA should have its staff review the Inspection and Enforcement Plan and "Violation Classification Guidance Document" located on the Cal/EPA website.

9. **Observation:** The Notice to Comply used by the Agricultural Commissioner has guidance printed on the back to assist the inspectors in identifying the most common violations. The following items may want to be considered the next time the forms are revised:

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- Item #6 states that waste oil must not be stored longer than one year and references Sonoma Co Ordinance # 5015, section 29-8(c). Storage for greater than 270 days must be done under the conditions of satellite accumulation according to T22, CCR, section 66262.34(e).
- Item #9 appears to note that facilities that generate less than 60 gallons of recyclable hazardous waste don't need to keep receipts for 2 years. All generators are required to keep shipping papers for at least 2 years and manifests for up to 3 years.
- Item #11 is not requirement for hazardous waste generators. Only facilities with full RCRA permits and containers being used for treatment are required to have secondary containment under hazardous waste laws.
- None of the Items addresses open containers.
- Item #8 does not address all required labeling elements. One key item missing is the marking of the initial date of accumulation. The item should reference same requirements for tanks used to store hazardous waste (used oil).
- Item #16 references the Uniform Fire Code, section 7902.5.1.2.1 for requiring fire extinguishers to be present. This is also required by hazardous waste regulations (T22, CCR, section 66262.34(d)(2), referencing 40CFR 262.34(d)(4) and 265.32) and may be enforced during inspections.

Recommendation: The Agricultural Commissioner's office may want to consider the above noted information when next revising its form.

- 10. Observation:** The CUPA has developed a good enforcement packet for documentation of violations, negotiations, and settlement in the case against Ace Marine. The packet includes a penalty calculation showing a calculated penalty that is substantially higher than the penalty settled.

Recommendation: DTSC recommends that the CUPA calculate a multi-day penalty by multiplying the initial penalty * number of days * 0.02 and adding that to the initial penalty.

- 11. Observation:** The CUPA's files are well-organized and information is easily obtained.

Recommendation: The CUPA is encouraged to continue to maintain their files in a well-kept manner.

- 12. Observation:** The UST Inspection checklist does not identify significant operational compliance (SOC) items or provide for a summary of these items for tracking purposes.

Recommendation: Provide a means for determining SOC compliance during the inspection and provide a means for tracking the compliance in order to provide the data for Report 6.

- 13. Observation:** The CUPA routinely has to re-inspect UST facilities due to violations. This re-inspection process is preventing the CUPA from achieving their 100% UST compliance inspection frequency.

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Recommendation: The SWRCB recommends that the CUPA come up with a plan for facilities to self-certify that certain violations have been corrected. This can be done by creating a return to compliance form or a block on their current inspection checklist for the facility to fill out and submit after the violation has been corrected.

- 14. Observation:** The CUPA has access to and uses digital cameras and camcorders to document UST facility violations. Along these same lines, the CUPA uses a tablet PC to conduct the facility inspection and prior to leaving the site; the inspection report is printed via a Bluetooth printer and signed. This gives the facility a clear picture of any violations that need to be corrected.
- 15. Observation:** The CUPA conducts a very thorough UST facility inspection. During the facility onsite file review, the CUPA had the designated operator (DO) walk through and explain the contents of the facility binders to include, the type of training that is provided to the employees, that state forms are correct, HMBP is correct and accurate, and that financial responsibility is up to date. Overall, the CUPA spent a great deal of time making sure the facility files were complete and accurate.

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The CUPA coordinates a Green Business Program that recognizes business that have implemented pollution prevention practices as well as businesses that met and/or exceed compliance standards. Generally, the businesses in the program are involved in automotive repair, wineries, and printers. The CUPA is working with the County of Sonoma, Economic Development Board to be the lead agency for implementing the program to expand the participation into non-CUPA regulated businesses. Businesses that participate in the program receive public recognition and their CUPA fees are reduced by 10%.
2. The CUPA has implemented several measures to ensure the Unified Program implementation is consolidated, coordinated, and consistent within the County. The CUPA attends quarterly meetings with the other CUPAs in Sonoma County (the Fire Departments of Santa Rosa, Petaluma, and Healdsburg) to coordinate program activities. During the meetings the CUPAs discuss enforcement, fee schedules to maintain similar fee structures, and other program elements. Members of the business community are invited to and often attend these meetings. The CUPA is also involved in an environmental enforcement working group known as the Sonoma Environmental Quality Assurance Committee (SEQAC). The following agencies are involved in SEQAC: the City of Santa Rosa Industrial Waste Section; the County of Sonoma, Division of Environmental Health, Department of Emergency Services, and the Agricultural Commissioner's Office; California Department of Toxic Substances Control; Bay Area Air Quality Management District; and both the San Francisco Bay and North Coast Regional Water Quality Control Boards. The CUPA actively participates in oil spill planning and preparedness meeting that are held in Alameda County. Additionally, the CUPA is participating in developing a routing call process to help funnel calls to the appropriate agency.
3. The CUPA has developed a thorough procedure to follow when the public requests information, known as Community Right to Know Information. This procedure identifies information the public can and can not review as well as confidential information available to first responders, government entities, and medical physicians. Sample forms are attached to the procedure highlighting the sections of information that should be blocked out and/or removed prior to public review. The procedure also includes a flow chart identifying the places to look for information, (open/closed files, databases, lists) depending upon the type of information requested – UST facility, hazardous waste generator, business plan facility, or spill release.
4. The CUPA has an excellent working relationship with the Agricultural Commissioner's Office. This relationship allows smooth, almost real-time data transfer between their two not-particularly compatible databases.
5. The CUPA and Agricultural Commissioner are doing an excellent job of getting inspection results to the appropriate fire agencies, which are numerous in Sonoma County.
6. The Agricultural Commissioner's Office does a very good job of identifying farms subject to the hazardous waste program, specifically through its use of the "hazmat questionnaire". Additionally,

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the Agricultural Commissioner's Office has developed a good reference material to be handed out to regulated farms which provides them with information regarding contractors, service providers, and disposal options.

7. The CUPA's test use of a tablet PC to record and generate inspection reports and SOVs is resulting in improved documentation of violations when compared to handwritten reports/SOVs.